

Participant-Directed Plan Transfers and Lifetime Plan Participation:

State Initiatives to Close the Retirement Savings Coverage Gap

Presentation to
ERISA Advisory Council
August 23, 2016

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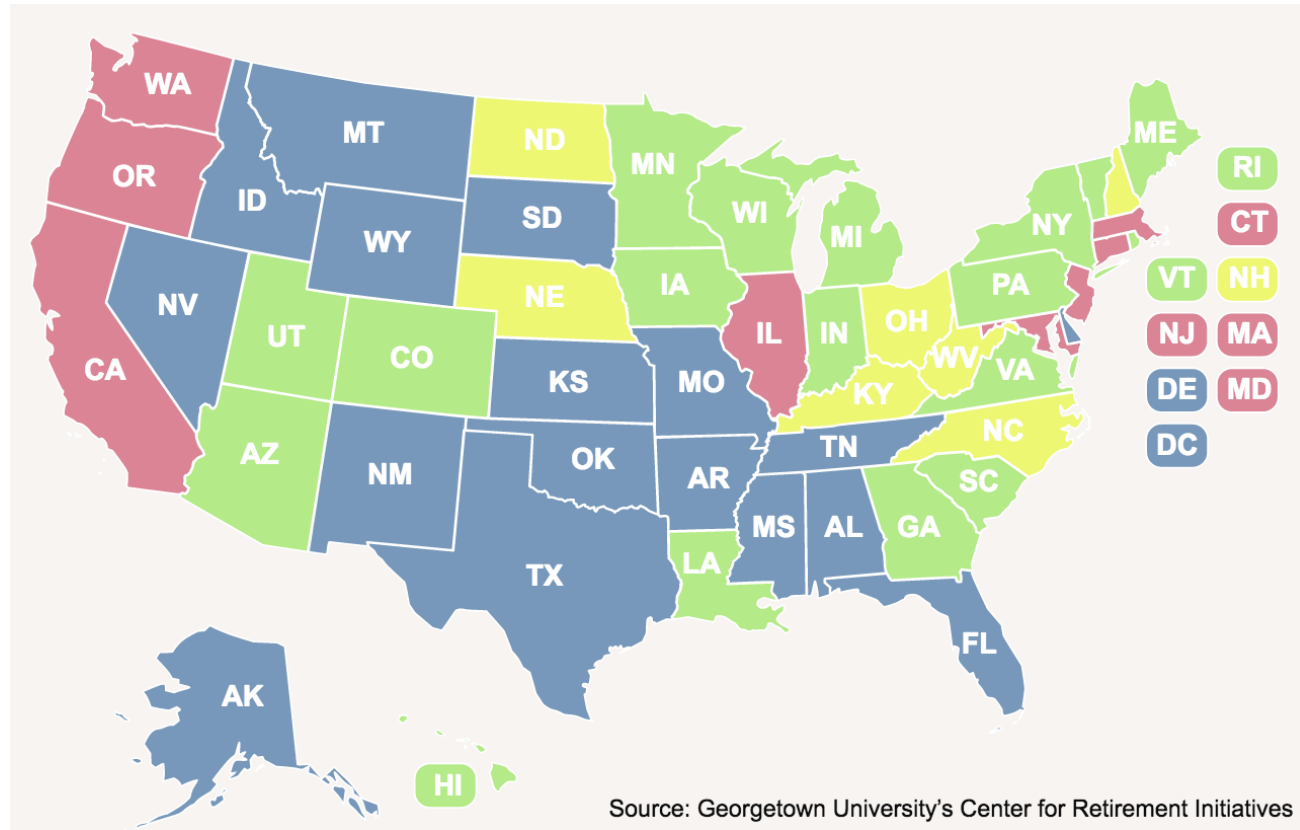
Why Are States Acting?

- Top financial concern
- Too little saved and Social Security isn't enough
- More than half of private sector workers are uncovered
- Long-term budget consequences
- Long-term economic consequences

From Crisis to Opportunity

- For Innovation and Leadership Look to the States
- States Are Stepping Up To Address Retirement Security
- Goal To Design Simple, Low-Cost, Easily Accessible and Effective Savings Options

Since 2012, More Than 30 States Have Considered or Enacted Private Sector Retirement Initiatives



- = legislative proposal and/or study in 2016
- = laws enacted (2012-present)
- = recent state efforts (2012-2015)

The States Are In Various Stages of Planning and Implementation

States – Program Enacted (8)

MASSACHUSETTS (2012)
ILLINOIS (2015)
OREGON (2015)
WASHINGTON (2015)
CALIFORNIA (2012/2016*)
CONNECTICUT (2016)
MARYLAND (2016)
NEW JERSEY (2016)

*enabling legislation pending

States/Metro – Study (6)

MARYLAND (2014-2015*)
MINNESOTA (2014)
OREGON (2013-2014*)
VERMONT (2014)
NEW YORK CITY (2015)
UTAH (2015*)
VIRGINIA (2015)
NEW YORK STATE (2016)
PHILADELPHIA (2016)

* COMPLETED

States/Metro – Legislation in 2016 (16)

ARIZONA
COLORADO
GEORGIA (S)
HAWAII (S)
INDIANA (2) (S)
IOWA
LOUISIANA
MAINE
MASSACHUSETTS (2)(S)
MICHIGAN
NEW JERSEY (2)
NEW YORK
RHODE ISLAND
SOUTH CAROLINA (S)
UTAH
WISCONSIN

8 other states in prior years have considered legislation
(S) – Study bill

How Would ERISA Apply to State Initiatives?

- ❖ States wanted clarity on whether and how ERISA would apply to these state-sponsored retirement savings plans.
- ❖ The President encouraged the Department of Labor (DOL) to issue rules to "Provide a Clear Path for States to Create Retirement Savings Programs" on July 31st, 2015.
- ❖ DOL issued two policy documents:
 1. A Proposed Rule (NPRM) in November 2015 creating a new safe harbor allowing state sponsored mandatory auto-enroll IRA to be exempt from ERISA. The final rule is currently under review at the Office of Management and Budget (OMB) and is expected to be published very soon.
 2. An Interpretive Bulletin (IB) in November 2015 for ERISA covered plans –MEPs, Prototype Plans, and Marketplace. The proposed guidance allows for a state open Multiple Employer Plan (MEP) arrangement by the state to facilitate plan formation and take burden off of employers, but maintain ERISA protections.

8 States – 3 Models....So Far

1. ERISA-exempt – Auto-IRAs (CA,CT,IL,MD,OR)
2. ERISA-covered – 401(k)s (MA)
3. ERISA-products – Marketplace (WA,NJ)

Other Possible Options:

- ERISA-covered –State Open Multiple Employer Plans (MEPs)
- Others to be designed consistent with federal Department of Labor guidelines (e.g., hybrid combinations)

AUTO-IRAs*

CA, CT, IL, MD, OR

- Mandatory, auto-enroll (with opt-out)
- Default contribution
- Employer contributions generally not permitted (would trigger ERISA)
- Pooled and professionally managed funds
- Must keep fees “low” (.75%-1% range)
- Market analysis and legal analysis to guide design and management issues

*General program characteristics with variations and administrative discretion to shape final program (see CRI's Comparison Charts for program details).

MARKETPLACE

Washington, New Jersey

- Managed by State Agency.
- Voluntary participation for employers with less than 100 employees.
- SIMPLE IRA, myRA (Roth IRA), and payroll deduction IRAs and others can be added.
- Employer contributions encouraged (ERISA plans encouraged).
- To be built and funded by private sector.
- Participation providers must offer at least two product options.
- Fees cannot exceed 1%.

401(K) Massachusetts

- Managed by the State Treasurer
- Targeted to expand access for employees of non-profit organizations
- Voluntary participation by non-profit employers with 20 or fewer employees
- Defined contribution 401(k) plans
- Auto-enroll with opt-out.
- Default contribution at 6% or can choose 4% with auto-escalation up to 10%.
- Fees estimated to be well under 1% (20-80 bps).

Comparison of Plan Design Features

- Submit 2 Additional Documents
 - Comparison of Plan Design Features in CA, IL, OR, MD and CT
 - Comparison of Plan Design Features in MA, WA, and NJ

<http://cri.georgetown.edu/state-briefs/>

State- Sponsored MEPs

- Subject to ERISA, employer participation must be voluntary
- DOL Interpretive Bulletin leaves some issues unresolved for states
 - Employer fiduciary responsibilities
 - Ability of state to delegate fiduciary responsibilities to third parties

Key Plan Design Considerations

- Voluntary or mandatory participation
- Role of employer and employer liability
- Types of employers and workers covered
- Types of product offered
- Default, minimum and maximum contribution levels
- Use of other tools and nudges such as auto-enrollment and auto-escalation

Key Plan Design Considerations

- Use of tax or other incentives
- Role of the state and state liability
- Governance
- Program funding
- Investment and management of assets
- Financial education

Key Plan Design Considerations

- Withdrawal rules and portability
- Program administration (e.g., recordkeeping/account consolidation)
- Lifetime income

Outlook for 2016-17

- DOL finalizes ERISA safe harbor rulemaking
- CA enacts enabling legislation to launch program
- Action and Trends for 2017 and beyond
 - Implementation work will be watched (WA, OR first to launch)
 - State studies continue (e.g., VT, NY)
 - Large cities exploring their own plans (NYC, Seattle, Philadelphia)
 - One or more new state programs enacted
 - Evolution of models continues
 - Private sector innovation in response to state efforts
 - How to expand focus from accumulation to decumulation and lifetime income

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President Directs DOL to Issue Rules to "Provide a Clear Path for States to Create Retirement Savings Programs"

[More information here](#)

STATES AS INNOVATORS

WILL 2015 BE THE YEAR FOR STATE SPONSORED RETIREMENT SAVINGS PLANS? STATES ARE OFF TO A STRONG START!

NEWS - July 13th, 2015. At today's White House Conference on Aging, President Obama called on the U.S. Department of Labor and Secretary Tom Perez to issue by year's end a proposed set of rules "to clear a path for states to create retirement savings programs." The President indicated that he wants "to do everything we can to encourage more states to take this step."

[President Obama's blog post](#)

RETIREMENT SECURITY FAST FACTS

Download Retirement Security Talking Points!

FAST FACT SHEET #2

How Prepared Are Women For Retirement?

NEWS AND REPORTS

The Savings & Investment Bipartisan Tax Working Group Report, U.S. Senate Finance Committee, July 7, 2015

The Federal Reserve's 2014 Survey of Household Economics and Decisionmaking, May 2015

Simplifying Choices in Defined Contribution Retirement Plan Design, The Pension Research Council, May 2015

The 2015 Retirement Confidence Survey: Having a Retirement Savings Plan a Key Factor, EBRI, April 2015

An Analysis of the Illinois Secure Choice Savings Program, New America, April 1, 2015

State-run retirement programs picking up steam, BenefitPro, March 22, 2015

Congress Forms Retirement Caucuses, BenefitsPro, March 4, 2015

Americans' Views of the Retirement Crisis, National Institute on Retirement Security, March 2015 Report

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